

PATENT APPLICATION

Express Mailing Label No. EV 151 286 680 US
IN THE U.S. PATENT AND TRADEMARK OFFICE
Attorney Docket No.: Pharmacia Case 6107.N CN2
January 16, 2003

Box RCE
Assistant Commissioner for Patents
Washington, DC 20231

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REQUEST FOR CONTINUED EXAMINATION (RCE) TRANSMITTAL

Sir:

This is a Request for Continued Examination (RCE) under 37 C.F.R. §1.114 of the below-identified pending application:

Serial No.: 09/656 364

Filing Date: September 6, 2000

Title: TABLET FORMULATION

Inventors: (1) Alice C. MARTINO, (2) Ashley H. BATES,
(3) Walter MOROZOWICH and (4) E. John LEE

Group: 1617

Examiner: Sharareh

Note: 37 C.F.R. §1.114 is effective on May 29, 2000. If the above-identified application was filed prior to May 29, 2000, applicant may wish to consider filing a continued prosecution application (CPA) under 37 C.F.R. §1.53(d) instead of a RCE to be eligible for the patent term adjustment provisions of the AIPA.

Please direct correspondence to the address associated with the following customer number:



26303

FLYNN, THIEL, BOUTELL & TANIS, P.C.
(PHARMACIA)

1. Submission required under 37 C.F.R. §1.114
 - a. ☐ An amendment under 37 C.F.R. §1.116 previously filed on _____ was not entered. Please enter before calculating the filing fee.
 - b. ☒ Enclosed is/are:
 - i. ☒ Amendment/Response (please enter before calculating the filing fee)
 - ii. ☒ Affidavit(s)/Declaration(s)

01/21/2003 TTRAN1 00000044 09656364

01 FC:1801 750.00 OP
02 FC:1252 410.00 OP

- iii. ☐ Information Disclosure Statement (IDS)
- iv. ☒ Acknowledgment Post Card
- v. ☒ Letter to Examiner

2. Miscellaneous

- a. ☐ Small entity status is claimed. See 37 CFR 1.27.
☐ Statement(s) re small entity is/are enclosed.
- b. ☐ _____

3. Fees (The RCE fee under 37 C.F.R. \$1.17(e) is required by 37 C.F.R. \$1.114 when the RCE is filed).

- a. ☒ The RCE fee and any filing fee for claims are calculated as shown below, after entering any amendments which this transmittal indicates are to be entered prior to such calculation:

For	No. Filed	No. Extra	(X) LG Entity	RATE	() SM Entity	Fee
Basic RCE Fee				\$750.00	\$375.00	\$750.00
Total Claims	(32 - 32 = 0)		x \$	18.00	x \$	9.00
Indep. Claims	(2 - 3 = 0)		x \$	84.00	x \$	42.00
<input type="checkbox"/> Multiple Dep. Claim			+	\$280.00	+	\$140.00
* * * TOTAL FILING FEE * * *						\$ 750.00

- b. ☒ Pursuant to 37 C.F.R. \$1.136(a), please extend the shortened period for response by two months. The extension fee is:

☒ \$410.00 (37 C.F.R. \$1.17)

☐ \$ (37 C.F.R. \$1.17; small entity status established by verified statement(s) submitted previously).

- c. ☐ Suspension of action on the above-identified application is requested under 37 C.F.R. \$1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months). Suspension of action fee is \$_____ (37 C.F.R. \$1.17(i)).

- d. ☒ A check for \$1,160.00 is enclosed to cover fees.

- e. ☐ Please charge my Deposit Account No. 06-1382 in the amount of \$_____. A duplicate copy of this transmittal is enclosed.

f. [X] The Commissioner is hereby authorized to charge payment of any additional application processing fees under 37 C.F.R. \$1.17 associated with this communication or to credit any overpayment to Deposit Account No. 06-1382. A duplicate copy of this sheet is enclosed.

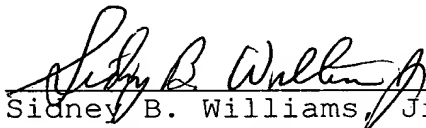
The undersigned is: [X] an attorney of record
[] acting under 37 C.F.R. \$1.34.

Please direct all telephone calls to the undersigned at telephone number (269) 381-1156.

Respectfully submitted,

FLYNN, THIEL, BOUTELL & TANIS, P.C.

IN DUPLICATE



Sidney B. Williams, Jr.
Reg. No. 24 949

SBW/smd

Encl: Listed above

106.0207



01-17-03

RCE/1617

PATENT APPLICATION

"Express Mail" Mailing Label No.: EV 151 286 680 US

Date of Mailing: January 16, 2003

Applicants: Alice C. MARTINO et al

Title: TABLET FORMULATION

Serial No.: 09/656 364

Confirmation No.: 3730

Filed: September 6, 2000

Atty Docket No.: Pharmacia Case 6107.N CN2

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Assistant Commissioner for Patents
Washington DC 20231

EXPRESS MAILING CERTIFICATE

Sir:

I hereby certify that the attached paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Assistant Commissioner for Patents, Washington DC 20231.

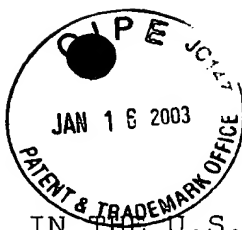
FLYNN, THIEL, BOUTELL & TANIS, P.C.

By: Linda Smith

Date: January 16, 2003

Documents attached: RCE Application Transmittal
dated January 16, 2003
including enclosures listed thereon

Telephone: (269) 381-1156
191.0112



PATENT APPLICATION

IN THE U.S. PATENT AND TRADEMARK OFFICE

January 16, 2003

Applicants: Alice C. MARTINO et al

For: TABLET FORMULATION

Serial No.: 09/656 364

Group: 1617

Confirmation No.: 3730

Filed: September 6, 2000

Examiner: Sharareh

Atty. Docket No.: Pharmacia Case 6107.N CN2

Assistant Commissioner for Patents
Washington, DC 20231

LETTER TO EXAMINER

Dear Examiner Sharareh:

This letter is a follow-up to our telephone interview of December 24, 2002 wherein we discussed my response to the final rejection and the advisory action dated December 10, 2002. As indicated during that interview, a Request for Continuing Examination (RCE) would be filed.

An amendment and declaration contained in the response to the final rejection was not entered. The purpose of this RCE is to have the substance of that amendment and declaration entered and given consideration by the Examiner.

The Amendment After Final Rejection and Declaration Under 37 CFR 1.132 accompanying this RCE differ from the amendment and declaration filed on November 21, 2002 in the following ways:

- (1) The amendment being submitted herewith does not amend page 3 of the specification, wherein the amendment filed November 21, 2002 did. After our discussion, it was agreed that by not amending the specification, issues of new matter would be avoided.
- (2) Figure 3 has been added to Exhibit 1 of the Declaration Under 37 CFR 1.132. In Figure 3, Curve B demonstrates the actual profile of delavirdine mesylate (a soluble salt) alone. Curve A demonstrates the profile of delavirdine mesylate with

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the binder HPMC and demonstrates the maintenance of the supersaturated state, well beyond the temporary supersaturation of delavirdine mesylate alone. Figure 3 is discussed in the first paragraph on page 4 of Dr. Martino's Declaration.

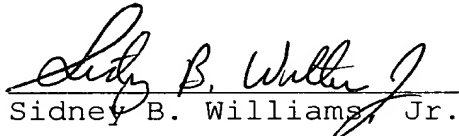
THE REJECTIONS

It was agreed that the language in the amended claims would overcome the indefiniteness rejection under 35 USC 112.

The Examiner also indicated that the presently amended claims define over the Akkerboom (U.S. Patent 5 211 958) and Weintraub et al (U.S. Patent 4 013 785) references and that he would need to conduct an additional search.

In conclusion, it is submitted that the claims submitted with the RCE are patentable and expeditious passage of this case to issue is respectfully solicited.

Respectfully submitted,


Sidney B. Williams, Jr.

SBW/smd

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Brian R. Tumm	Reg. No. 36 328
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Encl: None

136.0112